

Balardsdorf 780-HCL  
100718-364  
6713-Dr. Rs-hd 99-69a

<b>REMARKS</b>
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***Amendment to the Claims***

Claim 1 has been amended by inserting the "emulsifier-free" limitation of claim 2 (which has been cancelled). It is believed that no new matter has been added. Claims 1, 3, 4 and 9-16 are still pending.

***Double-patenting rejections***

Terminal disclaimers have been filed to address the double patenting and provisional double patenting rejection over U.S. 6,592,883 and application serial numbers: 09/641,013 and 09/840,822. It is believed that these rejections have been rendered moot by the filing of the terminal disclaimers.

***35 U.S.C. 102(b) rejection***

Claims 1-4 were rejected as being anticipated by Berthod et al. (U.S. Patent 4,448,051). The applicants request reconsideration for the following reasons.

While the applicants still believe that their previous position was sufficient to overcome the Berthod rejection, in the interest of advancing prosecution, the limitation of claim 2 has been inserted into claim 1. Berthod does not teach an emulsifier-free compositions and as such this reference on at least this basis does not anticipate (i.e. teach every element) of the applicants' claimed invention.

***35 U.S.C. 102(e)***

Claims 1-4 and 9-16 were rejected as being anticipated by Shiseido Co. Ltd. (JP 8-217619).

While the applicants still believe that their previous position was sufficient to overcome the Shiseido rejection, in the interest of advancing prosecution, the limitation of claim 2 has been inserted into claim 1. Shiseido does not teach an emulsifier-free compositions and as such this reference on at least this basis does not anticipate (i.e. teach every element) of the applicants' claimed invention. Shiseido also does not render the applicants preparation to be obvious as while it is at least arguable that one could experiment with the amount of emulsifier present, the Shiseido reference does not teach or suggest that the emulsifier could be completely eliminated/

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**Closing**

Applicants also believe that this application is in condition for allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Respectfully submitted,

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that the foregoing Amendment under 37 CFR § 1.111 (5 pages) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: 18 October 2004

By: Agata Glinska  
Agata Glinska